IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7720 OF 2003

Bandu Pandu Pawar .. Petitioner.
Vs.
Subhadra Bandu Pawar & Ors. .. Respondents.

Mr.Ravi Kachare for the petitioner.

CORAM : D.B.BHOSALE, J.

DATED : 25TH SEPTEMBER, 2006

P.C.:

. Heard learned counsel for the petitione.

2. By this writ petition, the petitioner has impugned the following order:

> . "The bailiff report, at Ex.51, shows that the suit summons was duly served on deft. No.3 on 5/4/2003. The defendant failed to submit written statement within 90 days as envisaged by order VIII R.1 of C.P.C. Hence this application is not maintainable. So rejected."

3. The trial Court has passed the aforesaid order much before the judgment of this Court in **Dr.(Mrs.) Shailaja Sawant Vs. Sayajirao Ganpat Patil in Writ Petition No.2169 of 2003** delivered on 19th December, 2003 wherein the amended provisions of Order 8 Rule 1 of the Code of Civil Procedure have been interpreted. Similar view has been taken by the Supreme Court in

Kailash Vs. Nanhku and Others AIR 2005 SC 2441. In view thereof I am satisfied that the following order shall meet the ends of justice:

. The order impugned is set aside and the application Exhibit-59 stands restored to file. The trial Court shall decide the said application (Exhibit-59) afresh after giving an opportunity of being heard to the parties and/or their learned counsel as expeditiously as possible and preferrably within a period of eight weeks from the date of receipt of this order. The trial Court shall decide aforesaid application (Exhibit-59) in the light of judgments referred to above and pass speaking order within time stipulated. The writ petition is, accordingly, disposed of. The interim order granted on 19th December, 2003 to remain operative till disposal of application at Exhibit-59. The petitioner to produce a copy of this order before the trial Court within two weeks from today. The petition is disposed of.

(D.B.Bhosale, J.)